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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,545	02/06/2004	Andy Wachter	WACHTR 3.0-001	6473
530 7590 06/12/2006 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER BALSIS, SHAY L	
			ART UNIT 1744	PAPER NUMBER

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,545

Applicant(s)

WACHTER, ANDY

Examiner

Shay L. Balsis

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/18/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/1/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of claims 5-16 in the reply filed on 5/18/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-4 and 17-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/18/06.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "said second end" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "said second end" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufmann (USPN 3582140).

Kaufmann teaches a brush comprising a shaft (5) with a first end and a second end. The second end comprises bristles (4) extending outwardly (claim 5). The shaft is comprised of two strands of intertwined steel (figure 4) (claim 9). The brush has a loop at the second end; the loop has bristles extending outwardly in a direction away from the first end of the shaft (figure 2) (claim 11). There is further a cloth material disposed on the end of the bristles (col. 2, lines 16-21) (claim 12). The brush further comprises a protection element (2) on the second end of the shaft (claim 13). Kaufmann teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kaufmann so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

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Claims 5-7, 9-10, 13, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glas (USPN 3165362).

Glas teaches a brush comprising a shaft (1) with a first end and a second end. The second end comprises bristles (13) extending outwardly (claim 5). The shaft is comprised of two strands of intertwined steel (figure 4) (claim 9). The brush further comprises a protection element (16) on the second end of the shaft (claim 13). There is a wedge (16, 20) for forcing the bristles in a direction away from the first end (claim 15). There is a top element (16) fastened to the second end of the shaft. There is a second plurality of bristles (21, 22) angled outwardly and away from the first end of the brush (claim 16). Glas teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Glas so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

Claims 5-7, 9-10, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (USPN 2633592).

Meyer teaches a brush comprising a shaft (14) with a first end and a second end. The second end comprises bristles (12) extending outwardly (claim 5). The shaft is comprised of two strands of intertwined steel (figure 2) (claim 9). The brush further comprises a protection

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element (16) on the second end of the shaft (claim 13). There is a locking hub disposed on the first end of the shaft (24) (claim 14). There is a wedge (16) for forcing the bristles in a direction away from the first end (claim 15). There is a top element (16) fastened to the second end of the shaft. There is a second plurality of bristles (18) angled outwardly and away from the first end of the brush (claim 16). Meyer teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Meyer so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

Claims 5-11, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rivera (USPN 5809601).

Rivera teaches a brush comprising a shaft (not labeled but shown in figure 2) with a first end and a second end. The second end comprises bristles (34) extending outwardly (claim 5). The bristles are made from nylon (col. 3, lines 18-20) (claim 8). The shaft is comprised of two strands of intertwined steel (figure 2) (claim 9). There is a locking hub disposed on the first end of the shaft (40, 44, 36) (claim 14). Rivera teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rivera so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch

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and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

Claims 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner et al. (USPN 5599225).

Warner teaches a brush comprising a shaft (35) with a first end and a second end. The second end comprises bristles (23, 24) extending outwardly (claim 5). The bristles are made from nylon (col. 4, lines 30-33) (claim 8). The shaft is comprised of two strands of intertwined steel (27, 28) (claim 9). Warner teaches all the essential elements of the claimed invention however fails to teach the exact dimensions of the shaft and bristles (claims 5-7 and 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Warner so that the shaft is 16-18 inches long and has a diameter of 3/8 of an inch and so that the bristles are in the range of 4-6 inches long since the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device. A device having the claimed relative dimensions would not perform differently than the prior art device and therefore, the claimed device is not patentably distinct from the prior art device. MPEP 2144.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SLb
6/1/06



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